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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,446	10/28/1999	LYNDON W. GRAHAM	SEM4492P0771	5945

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EXAMINER

LEADER, WILLIAM T

ART UNIT	PAPER NUMBER
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1741

DATE MAILED: 09/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/429,446

Applicant(s)

GRAHAM ET AL.

Examiner

William T. Leader

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/27/02 with a COM dated 08/21/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Receipt of the response filed on August 27, 2002, with a certificate of mailing dated August 21, 2002, is acknowledged.

Claim Rejections - 35 USC § 103

2. Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorne et al (6,132,587) in view of Inoue et al (5,556,814), Erb (6,107,186) or Taylor et al (6,203,684), and further in view of Reid et al (6,074,544) Shue et al (6,140,241) or the Lowenheim text, *Electroplating* for the reasons of record and in view of the following comments.
3. Claims 16-19 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorne et al (6,132,587) in view of Inoue et al (5,556,814), Erb (6,107,186) or Taylor et al (6,203,684), and further in view of Reid et al (6,074,544) Shue et al (6,140,241) or the Lowenheim text, *Electroplating* as applied to claims 15 and 20 above, and additionally in view of Ting et al (6,077,412) and Young et al (4,705,606).
4. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorne et al (6,132,587) in view of Inoue et al (5,556,814), Erb (6,107,186) or Taylor et al (6,203,684), and further in view of Reid et al (6,074,544) Shue et al (6,140,241) or the Lowenheim text, *Electroplating* as applied to claims 15 and 20 above, and

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additionally in view of Abys (4,427,502) and Dubin et al (5,972,192) for the reasons of record and in view of the following comments.

5. Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorne et al (6,132,587) in view of Inoue et al (5,556,814), Erb (6,107,186) or Taylor et al (6,203,684), and further in view of Reid et al (6,074,544) Shue et al (6,140,241) or the Lowenheim text, *Electroplating* as applied to claims 15 and 20 above, and further in view of Lowenheim (page 300) and Dubin et al (5,972,192) for the reasons of record and in view of the following comments.

Response to Arguments

Applicant's Remarks have been carefully considered but are not deemed to be persuasive. Applicant has requested that the specification be amended to recite that the instant application is a continuation-in-part of prior copending application no. 09/880,715, filed June 12, 2001, which in turn is a continuation of application no. 09/018,783, filed February 4, 1998 and a continuation-in-part of application no. 08/988,333. Applicant claims the benefit of the filing dates of these applications under 35 U.S.C. ¶ 120.

Applicant argues that the parent applications claim a filing date prior to the filing dates of the Jorne et al, Reid et al, Shue et al, and Ting et al references. This argument is not persuasive. 35 U.S.C. 120 reads as follows:

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35 U.S.C. ¶ 120 Benefit of earlier filing date in the United States.

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.

(Amended Nov. 14, 1975, Public Law 94-131, sec. 9, 89 Stat. 691; Nov. 8, 1984, Public Law 98-622, sec. 104(b), 98 Stat. 3385; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-563 (S. 1948 sec. 4503(b)(1)).)

The statute requires that an application for which benefit is claimed be “previously filed”. The instant application was filed on October 28, 1999. Application no. 09/880,715, for which applicant claims benefit, was filed on June 12, 2001. This filing date is more than one year and seven months *after* the filing date of the instant application. Consequently, application no. 09/880,715 is not a previously filed application as required by the statute, and cannot be relied on to establish an earlier filing date for the instant application. The rejections based on the references of record are proper.

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Conclusion


6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William T. Leader whose telephone number is 703-308-2530. The examiner can normally be reached Mondays-Thursdays and every other Friday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen, can be reached on (703) 308-3322. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


William Leader
September 12, 2002


NAM NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700